

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5126 OF 2007

1. Pawan Ashok Aher and anr.] .. Petitioners

Versus

1. The Divisional Secretary, Maharashtra]
State Board of Secondary and Higher]
Secondary Education, Nasik Division]
and anr.] .. Respondents

Mr. S.G. Kudle for the petitioners.

Mrs. Deepa Chavan i/b M/s.Little & Co. for the
respondent No.1.

**CORAM: S.B. MHASE &
D.G. KARNIK, JJ.**

DATED: 25TH OCTOBER, 2007

P.C. :

1. Heard learned counsel for the petitioners.

2. By this petition, the petitioners challenge the decision of the respondent No.1 - Maharashtra State Board for Secondary and Higher Secondary Education (for short the "Board") debarring the petitioners from appearing for examination for three years on the ground of malpractices in the examination.

3. Though the two petitioners have two different causes of action, we are not dismissing the petition on that ground alone. Both the petitioners appeared for the secondary school examination conducted by the respondent No.1-Board. The question papers of each of the petitioners was returned by the examiner without examining them on the ground that the handwriting of each of the petitioner in different parts of the answer papers were different and the handwriting were of different people. Thereafter, the Board issued notices to the petitioners and after hearing them the Board came to the conclusion that each of the answer papers were written by at least two different persons and the handwritings were different.

4. Mr. S.G. Kudle, learned counsel for the petitioners submitted that the papers ought to have been sent to the handwriting expert and the Board could not have come to the conclusion that the handwritings on the answer papers were of two different persons without obtaining the handwriting expert's report.

5. The original answer papers were produced for

our inspection. We have perused the answer papers and compared the handwritings. It is exfacie clear that the handwritings in two parts of the same answer papers are not of the same person and they are necessarily of two different persons. They are so different that by barely looking at them it would be clear that they are the handwritings of two different persons and, therefore, it is not necessary to send them to the handwriting expert merely because the petitioners insist that they should be sent to the handwriting expert. We are satisfied that the answer papers in respect of each of the petitioner are written by two different persons and the handwritings at two different places in the same answer paper are different. Learned counsel then submitted that the punishment of debarring the petitioners for three years was excessive and exorbitant. The punishment is basically in accordance with the rules which provide for debarring for a period of three years. We notice that the conduct of the petitioners is far from satisfactory. Not only there was a malpractice in the examination, but after the show cause notice, each of the petitioner insisted that the handwriting on each of the paper was their own and the answer papers did not contain two different handwritings.

6. In the circumstances, we are satisfied that the Board has acted within its powers in imposing punishment permitted by the rules and not showing leniency to the petitioners. There is no merit in the Petition and it is hereby rejected.

Sd/-
[D.G. KARNIK, J.]

Sd/-
[S.B. MHASE, J.]